

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW HAMPSHIRE

DAVID MORRISSETTE, both individually )  
and as parent and next friend of R.M., a )  
minor, )

Plaintiff, )

v. )

Case No. 1:16-cv-00055-JL

UNITED STATES OF AMERICA, by and )  
through its officers, agents and/or )  
employees; JEANNE M. CHAREST, )  
A.R.N.P., individually and as an officer, )  
agent and/or employee of COOS COUNTY )  
FAMILY HEALTH SERVICES; and COOS )  
COUNTY FAMILY HEALTH SERVICES, )  
by and through its officers, agents, and/or )  
employees, )

Defendants. )  
\_\_\_\_\_ )

**NOTICE OF SUBSTITUTION**

Please take notice that, pursuant to 28 U.S.C. § 2679(d)(1), the United States of America is hereby substituted for the defendants Coos County Family Health Services, Inc. ("CCFHS") and Jeanne M. Charest, ARNP, with respect to any and all causes of action based on state law. The grounds for this substitution are:

1. Plaintiff, David Morrisette, has brought this action against all defendants, alleging that he and his minor child, R.M., sustained damages as a result of negligent medical care provided to R.M. At all times relevant to this case, CCFHS has been a grantee of the United States Department of Health and Human Services ("USDHHS"), Declaration of Jennifer Williams, attached as Exhibit A to this Notice, ("Williams Dec.") at ¶ 2 and Attachment 1, and Jeanne Charest has been an employee of CCFHS. *Id.* at ¶ 3. Pursuant to 42 U.S.C. § 233(h), the USDHHS has deemed CCFHS and its employees, who are health care practitioners, to be

employees of the federal government for the purposes of coverage under the Federal Tort Claims Act ("FTCA"), 28 U.S.C. §§ 2671, et seq., for acts and omissions occurring on or after June 23, 1996. Williams Dec. at ¶ 2-3.

2. Plaintiff's exclusive remedy for a tort claim against an employee of the United States is an action against the United States under the FTCA. 42 U.S.C. § 233(g) - (n); 28 U.S.C. §§ 2675, 2679.

3. Pursuant to 28 U.S.C. § 2679, and 28 C.F.R. § 15.3, the United States Attorney for the District of New Hampshire has certified that, at the time of the conduct alleged in this action, CCFHS and Charest were acting within the scope of their employment as employees of the United States. Certification of Emily Gray Rice, United States Attorney for the District of New Hampshire, attached as Exhibit B.

4. Upon certification that a federal employee was acting within the scope of his employment at the time of the incident out of which a state law claim arises, any civil action based on the incident shall be deemed an action against the United States, and the United States shall be substituted as the sole defendant with respect to the state law claims. 28 U.S.C. §§ 2679(d)(1).

Respectfully submitted,

EMILY GRAY RICE  
United States Attorney

Dated: March 28, 2016

By: /s/ T. David Plourde  
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CERTIFICATE OF SERVICE

I certify that on this 28th day of March, 2016, a copy of the foregoing Notice of Substitution was served via the ECF System on counsel for the plaintiff, Cyrus F. Rilee, III, Esq.

/s/ T. David Plourde  
T. David Plourde, AUSA